

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Mediacom Communications Corporation)	
)	CSR-7058-C
v.)	
)	
Sinclair Broadcast Group, Inc.)	
)	
Emergency Retransmission Consent Complaint)	
and Complaint for Enforcement for Failure to)	
Negotiate Retransmission Consent Rights in Good)	
Faith)	

ORDER

Adopted: January 12, 2007

Released: January 12, 2007

By the Chief, Media Bureau:

1. On October 31, 2006, Mediacom Communications Corporation (“Mediacom”) filed an Emergency Retransmission Consent Complaint and Complaint for Enforcement for Failure to Negotiate Retransmission Consent Rights in Good Faith (“Complaint”) against Sinclair Broadcast Group, Inc. (“Sinclair”), pursuant to Sections 76.7 and 76.65 of the Commission’s rules.¹ On January 4, 2007, the Media Bureau issued a Memorandum Opinion and Order finding no violation of the Commission’s rules and denying Mediacom’s Complaint.² Prior to the ruling by the Media Bureau, Mediacom filed a Supplement to “Request for Order Permitting Interim Carriage of Sinclair Stations and Request for Expedited Treatment” (“Supplement”). In its Supplement, Mediacom requested that “. . . in the event that the decision on the ‘Emergency Retransmission Consent Complaint’ is made by the Bureau and not by

¹ 47 C.F.R. §§ 76.7 and 76.65. Mediacom requested emergency, expedited treatment of this Complaint. Mediacom also filed a Request for Order Permitting Interim Carriage and Request for Expedited Treatment (“Request for Interim Carriage”) which asked that, if the Commission cannot act on an expedited basis, it issue injunctive relief beginning December 1, 2006, lasting for at least three months and having the effect of a temporary restraining order, to preserve the *status quo* cable retransmission of the Sinclair stations pending resolution of Mediacom’s Complaint. Pursuant to written notice from Sinclair, Mediacom’s existing retransmission consent was to have expired on December 1, 2006. In a Public Notice released on November 8, 2006, Media Bureau Action, DA 06-2274, the Commission declined Mediacom’s request for expedited review of its Emergency Retransmission Consent Complaint, but sought comment on its Request for Interim Carriage. On November 30, 2006, the parties reached an agreement to extend carriage of Sinclair’s signals on Mediacom’s cable systems through January 5, 2007 in exchange for compensation and other consideration from Mediacom.

² *Mediacom Communications Corporation v. Sinclair Broadcast Group, Inc.*, DA 07-3 (MB rel. Jan 4, 2007) (“Order”).

the Commission, [Mediacom] hereby requests the Commission to shorten the time period provided in Section 1.115(d) of the Commission's Rules for the filing of an opposition to the Application for Review to seven days, with no reply permitted. Under such circumstances, Mediacom further requests that the Commission expedite its decision on the Application for Review, once the matter has been submitted on the papers."³ Thereafter, Sinclair filed an Opposition to Mediacom's Supplement asserting that "... there is no precedential support for Mediacom's request to shorten Commission procedural time periods in the event that a decision is made on Mediacom's 'Emergency Retransmission Consent Complaint.' Mediacom wants the FCC and Sinclair to rush through procedures while Mediacom seeks more time to stall negotiations."⁴ On January 11, 2007, Mediacom filed an Emergency Motion for Expedited Action informing the Commission that Sinclair publicly announced that it would not pursue arbitration as urged by the Media Bureau in its *Order*, reiterating its request for accelerated review of its Application for Review, and renewing its request for interim carriage while the matter is pending before the full Commission.⁵ On January 12, 2007, Sinclair filed an Opposition to Emergency Motion for Expedited Action and Renewed Request for Interim Carriage. In its Opposition, Sinclair states that it is not opposed to expedited action on Mediacom's Application for Review, but that the Commission must reject Mediacom's renewed request for interim carriage.⁶ Also on January 12, 2007, Mediacom filed a Reply to Opposition to Emergency Motion for Expedited Action and Renewed Request for Interim Carriage. In its Reply, Mediacom clarified that it is willing to pay Sinclair, during an interim carriage period, a per subscriber daily rate as proposed by Sinclair to Mediacom on January 11, 2007.⁷

2. We find that Mediacom has presented good cause to accelerate the pleading cycle in this proceeding. Although Sinclair correctly asserts that Section 1.115 does not set forth specific provisions for such action,⁸ there is ample authority in Section 1.3 of the Commission's rules to support our action here. Section 1.3 provides:

The provisions of this chapter may be suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act and the provisions of this chapter. Any provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown.⁹

In this instance, we believe that Mediacom has demonstrated good cause to accelerate the pleading cycle. Mediacom's retransmission consent for the 22 Sinclair stations expired at 12:01 a.m. on January 6, 2007. Moreover, Sinclair has publicly announced that it would not engage in binding arbitration with Mediacom further dimming chances of a swift resolution to the dispute. Accordingly, we will require Sinclair to file

³ Supplement at 3.

⁴ Opposition to Supplement at 3.

⁵ Emergency Motion for Expedited Action at 1-3; *see Order* at ¶ 25. Mediacom continues to urge the Commission to require interim carriage under the same terms agreed to by Mediacom and Sinclair on November 30, 2006. *See Supplement* at 2-4; Emergency Motion for Expedited Action at n.6; *see also supra* n.1.

⁶ Opposition to Emergency Motion for Expedited Action at 2.

⁷ Reply to Opposition to Emergency Motion for Expedited Action at 1-2.

⁸ 47 C.F.R. § 1.115.

⁹ 47 C.F.R. § 1.3.

its Opposition to Mediacom's Application for Review on or before January 19, 2007. As further requested by Mediacom, no Reply will be permitted.

3. We cannot grant Mediacom's request for interim carriage. Although Mediacom has filed an Application for Review with the Commission, the Media Bureau's initial finding was that Sinclair did not violate the Commission's good faith rules in its negotiations with Mediacom. Absent a finding of violation, the Commission is without authority to grant the relief Mediacom is seeking. We reiterate that we recognize the cost to consumers if Mediacom and Sinclair do not reach retransmission consent. Although the Commission does not have the authority to require the parties to submit to binding arbitration, we continue to strongly encourage them to submit to binding arbitration. Both parties could agree to final binding arbitration by the Media Bureau. If both parties agree to final binding arbitration by the Media Bureau, we would require Sinclair to authorize Mediacom's continued carriage of its stations' signals during the pendency of arbitration pursuant to the terms of the November 30, 2006 agreement between the parties, or, if so directed by the parties, pursuant to the per subscriber daily rate as proposed by Sinclair to Mediacom on January 11, 2007.

ORDERING CLAUSES

4. Accordingly, **IT IS ORDERED** that the pleading cycle for Mediacom Communications Corporation's Application for Review of the Media Bureau's January 4, 2007 Memorandum Opinion and Order, DA 07-3 **IS HEREBY AMENDED** as set forth herein.

5. **IT IS FURTHER ORDERED** that Mediacom Communications Corporation's request for interim carriage **IS DENIED** as set forth herein.

6. This action is taken pursuant to delegated authority under Section 0.283 of the Commission's rules.¹⁰

FEDERAL COMMUNICATIONS COMMISSION

Donna C. Gregg
Chief, Media Bureau

¹⁰ 47 C.F.R. § 0.283.